

REMARKS

The Office action dated December 3, 2004, and the references cited have been fully considered. In response, please enter the amendments presented herein and consider the following remarks. Reconsideration and/or further prosecution of the application is respectfully requested. No new matter is added herein.

The specification is amended herein to include thirteen paragraphs describing the claims as originally filed without adding any new matter, as support is clearly provided by the original filed application including the originally filed claims. Claims 14 and 34 are amended herein to correct verb tense, clarify when a group is subject to the bulk update technique and to change the phrase "if the" to "in response to said determining operation identifying that the" to show the continuity with the determining operation ("if") and the response, with support provided at least by FIGs. 4A-B and their discussion on pages 11-13 of the originally filed specification.

Applicant respectfully requests the specification and 35 USC § 112 rejections and/or objections be withdrawn as the application as originally filed clearly supports all of the claims as originally filed, including that the inventor had the invention of claim 12 in his possession at time of filing, including claim 12 being directly written in the specification. The Office failed to provide any rejection based on prior art as required by the MPEP for a proper examination despite the § 112 rejection. Therefore, apparently the Office considers that claim 12 is allowable over the prior art, and Applicant respectfully requests claim 12 be allowed.

Claims 1-11, 13-34 stand rejected under 35 USC § 103(a) as being unpatentable over Rastogi et al., US Patent 6,205,449, in view of Mikkelsen et al., US Patent 6,789,178. Applicant respectfully traverses all rejections as the Office fails to provide a proper § 103 rejection that demonstrates all claim limitations and/or provide a proper motivation to combine the cited references.

Note, if the Office complies with MPEP § 706 and specifically 37 CFR 1.104(c)(2), then the Office determined that the Rastogi et al. and Mikkelsen et al. references are the best references available. As the best available references neither teach nor suggest all the claim

elements and limitations as required by the MPEP, then all pending claims are believed to be allowable, and Applicant requests the claims be allowed and the application pass to issuance.

For obviousness, 35 USC § 103(a) requires "the prior art reference (or references when combined) must teach or suggest *all the claim limitations*. The teaching or suggestion to make the claimed combination and *the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure*." MPEP § 706.02(j) (*citing In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991))(emphasis added). And, the burden is on the Office Action to establish a *prima facie* case of obviousness.

In order to meet these burden, the Office must at least present a rejection for each and every claim limitation, *with these limitations being construed in light of the specification*; all of *the presented rejections for a claim must be used in a consistent and as a whole cohere*; and the application of the reference(s) must teach the claim limitation to which it is/they are applied.

One aspect disclosed by the originally filed application in this matter is the ability to use a combination of bulk and transactional updates to update a second database. Bulk updating includes initially updating the second database with multiple entries, while transactional updating is used for updating the second database with entries which correspond to entries or groups thereof which have already been updated via the bulk updating. Thus, one embodiment provides an efficient and effective way to update a second database to reflect the first database using a combination of bulk and transactional updates. Also, for example, in one embodiment, before the bulk update process has been complete for all entries, a new update for an entry which has already been already been bulk updated (or all entries within its corresponding group have already been bulk updated), these entries will be transactional updated. *See, inter alia*, FIGs. 4A-B and the corresponding description of pages 11-13 of the originally filed application.

The Office action cites Rastogi et al. for teaching the recited limitations of claim 1 of bulk updating and transactional updating, which Applicant respectfully traverses as Rastogi et al. neither teaches nor suggests both a system performing both types of updates. Paragraph 3 of the Office action cites Rastogi et al.'s maintaining a transaction logger for the recited limitation of

transactional updating the second database with the new transaction request. Applicant respectfully traverses this rejection as maintaining a transactional logger does not update the second database (hence, it neither teaches nor suggests transactional updating the second database). Rather, Rastogi et al. updates the second database when it commits the logged changes (which the Office equates to bulk updating). 35 USC § 103(a) requires that the prior art reference(s) teach the semantics of the recited limitations, and not merely use similar language. Applicant traverses the characterization of Mikkelsen et al.'s receiving of information for this deficiency as Mikkelsen et al. neither teaches nor suggests the limitation of transactional updating the second database, as receiving the information fails to update the second database. For at least these reasons, Rastogi et al. or Mikkelsen et al., alone or in combination, neither teach nor suggest all the claim limitations.

Moreover, Applicant also respectfully traverses the Office's rationale for the combination as the Office merely copies a recited object of the invention of Mikkelsen et al., which fails (and nor does Rastogi et al. lend any insight) to provide any motivation *for the combination of these references* (e.g., why a system would use both techniques), nor how such a system would functionally operation together without causing the other technique to fail, or even why a system would use both techniques.

For at least these reasons, independent claim 1 and its dependent claims 2-13 are believed to be allowable.

Additionally, in regards to dependent claim 3, the Office fails to address all the limitations (i.e., "occurs *only* during a booting or reconciliation phase of the standby controller"), and apparently the Office admits that it does not do this *only* during a particular phase, rather it always does this ("keeping the secondary system in continuous synchronization.") Additionally, in regards to dependent claim 4, this rejection is inconsistent with the application of Mikkelsen et al. to claim 1 (e.g., sending commands is transactional updating while now it is bulk updating). Additionally, in regards to dependent claim 5, Rastogi et al. or Mikkelsen et al., alone or in combination, neither teach nor suggest bulk and transactional updating. Additionally, in

regards to dependent claim 6, the Office apparently admits that neither reference teaches groups of elements as it states that Mikkelson's operation "giv[es] rise to the ease of grouping," rather than citing an actual teaching of grouping elements. Additionally, in regards to dependent claims 7 and 8, the Office fails to even address the grouping limitations as recited in the claims. Additionally, in regards to dependent claim 9, Rastogi et al. neither teaches nor suggests a switching system. Additionally, in regards to dependent claim 10, the Office fails to address all the limitations (i.e., "occurs *only* during a booting or reconciliation phase of the standby controller"), and apparently admits that it does not do this *only* during a particular phase, rather it always does this ("keeping the secondary system in continuous synchronization.")

The Office action relies on the same rational and statement of rejections for claims 14-34 that it used in its rejection of claims 1-13, including, but not limited to the fact that the prior art of record, alone or in combination, neither teaches nor suggest a combined bulk and transactional update method recited in independent claim 14, and even so, there is no proper teaching for combining these references. As such, Applicant respectfully traverses the rejections for claims 14-34 for at least the same reasons present *supra*.

In regards to the claim set consisting of independent claim 14 and dependent claims 15-26, Applicant respectfully traverses the rejections of these claims for at least the reasons previously discussed in relation to claims 1-13, including, but not limited to the fact that the prior art of record, alone or in combination, neither teaches nor suggest a combined bulk and transactional update method recited in independent claim 14, and even so, there is no proper teaching for combining these references. Additionally, independent claim 14 recites groups of elements and whether they are subject to bulk or to transactional updates (and the Office action fails to address this limitation), and which is neither taught nor suggested by the prior art of record. For at least these reasons, claims 14-26 are believed to be allowable.

In regards to the claim set consisting of independent claim 27, Applicant respectfully traverses the rejections of these claims for at least the reasons previously discussed in relation to claims 1-13, including, but not limited to the fact that the prior art of record, alone or in

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combination, neither teaches nor suggest a combined bulk and transactional update method recited in independent claim 14, and even so, there is no proper teaching for combining these references.

In regards to the claim set consisting of independent claim 28, claim 28 is a written in means plus function format and roughly corresponds to claim 27, and therefore, Applicants traverse the rejection of claim 28 for at least the reasons presented for traversing the rejection of claim 27.

In regards to the claim set consisting of independent claim 29 and dependent claims 30-32, the rejection of claim 29 is traversed for at least the reasons presented herein for traversing claims 1-13.

In regards to the claim set consisting of independent claim 33, claim 33 is a written in means plus function format and roughly corresponds to claim 1, and therefore, Applicants traverse the rejection of claim 33 for at least the reasons presented for traversing the rejection of claim 1.

In regards to the claim set consisting of independent claim 34, claim 34 is a written in means plus function format and roughly corresponds to claim 14, and therefore, Applicants traverse the rejection of claim 34 for at least the reasons presented for traversing the rejection of claim 14.

In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over the prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney.

Applicant believes a two-month extension of time is required, and hereby petitions any extension of time required and has included herewith a credit card payment form (PTO-2038)

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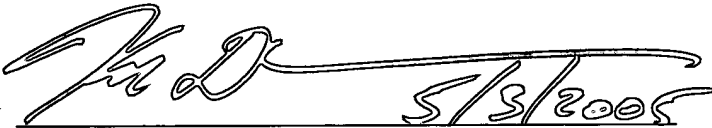
for payment of the extension fee, and Applicant's representative hereby authorizes the Commissioner to charge/credit any additional associated fees to Deposit Account No. 501430.

Additionally, the Commissioner is hereby generally authorized under 37 C.F.R. § 1.136(a)(3) to treat this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 requiring an extension of time as incorporating a request therefore, and the Commissioner is hereby specifically authorized to charge Deposit Account No. 501430 for any fee that may be due in connection with such a request for an extension of time. Moreover, the Commissioner is hereby authorized to charge payment of any fee due any under 37 C.F.R. §§ 1.16 and § 1.17 associated with this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 or credit any overpayment to Deposit Account No. 501430.

Respectfully submitted,
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By



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